

Introduced by Senator Murray

December 6, 2004

An act to add Chapter 4.5 (commencing with Section 6400) to Division 7 of Title 1 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 4, as amended, Murray. The California Public Performance Facilities Authority Act.

Existing law authorizes a public agency or entity created pursuant to a joint powers agreement by 2 or more public agencies to, among other things, make and enter *into* contracts, acquire, construct, manage, maintain, or operate any building, ~~works~~ *work*, or ~~improvements~~ *improvement*, hold or dispose of property, or incur debts, liabilities, or obligations for specified public purposes. Existing law also authorizes the public agency or entity to issue revenue bonds for acquiring or constructing a coliseum, ~~a~~ stadium, ~~a~~ sports arena, ~~or~~ a sports pavilion, or other building for holding sports events, athletic contests, contests of skill, exhibitions, spectacles, and other public meetings.

This bill would enact the California Public Performance Facilities Authority Act and ~~create~~ *establish* the California Public Performance Facilities Authority in state government. ~~The bill would provide for to be administered by a board of directors composed of 9 appointed members with the power. The bill would authorize the authority to,~~ among other things, acquire, construct, manage, maintain, or operate a facility, as defined, including, but not limited to, a coliseum, stadium, sports arena, theater, performance hall, or sports pavilion. The bill would also authorize the authority to sell premium seat licenses, as

defined, and naming and sponsorship rights, and to issue revenue bonds and other forms of indebtedness for ~~these~~ purposes *of the bill*, subject to specified conditions.

~~This bill would exempt certain projects undertaken by the authority from the California Environmental Quality Act, subject to specified conditions.~~ The bill would authorize the authority to enter into agreements with other state or public agencies to operate a facility for the general recreational purposes of a city or county.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 4.5 (commencing with Section 6400) is
2 added to Division 7 of Title 1 of the Government Code, to read:

3
4 CHAPTER 4.5. CALIFORNIA PUBLIC PERFORMANCE
5 FACILITIES AUTHORITY ACT

6
7 Article 1. Title and Definitions

8
9 6400. This chapter shall be known and may be cited as the
10 California Public Performance Facilities Authority Act.

11 6401. As used in this chapter, the following definitions shall
12 apply:

13 (a) “Authority” means the California Public Performance
14 Facilities Authority.

15 (b) “Board” means the board of directors of the authority.

16 (c) “Facility” includes all of the following:

17 (1) Coliseums, stadiums, arenas, pavilions, theaters,
18 performance halls, or other structures or buildings for holding
19 athletic events or other events, performances, and gatherings,
20 including, but not limited to, professional or amateur baseball,
21 football, and basketball, automobile racing, musical, dramatic,
22 artistic, or cultural performances or events, social events, and
23 other public meetings, fairs, or public events.

24 (2) Practice fields and related areas that are part of a facility
25 specified in paragraph (1), where professional or amateur sports
26 teams may practice.

(3) Property that is part of, adjacent to, or in some other manner directly connected with a facility specified in paragraphs (1) and (2), including, but not limited to, all of the following:

(A) Offices, parking lots and garages, access roads, streets, intersections, highway interchanges, pedestrian walkways, tunnels, bridges, transportation facilities, monuments, restaurants, stores, and other facilities providing goods and services to persons attending performances, meetings, contests, gatherings, or events at a facility.

(B) Other property or structures, including all fixtures, furnishings, and appurtenances, directly associated with a facility.

(C) Facility related landscaping, parks, and open spaces.

(D) Equipment and systems necessary to support a facility or necessary to deliver services to or from the facility, including, but not limited to, telecommunications and computer equipment and systems.

(d) “Premium seat license” means a license that grants a right to purchase various classes of tickets for specific seat locations, including the right to transfer or sell seats and other privileges related to ticket purchases and attendance at the facility.

Article 2. California Public Performance Facilities Authority

6402. The California Public Performance Facilities Authority is hereby established in state government.

6403. (a) The authority shall be administered by a board of directors composed of nine members appointed pursuant to subdivision (b) and shall conduct its business in accordance with this chapter.

(b) The members of the board shall be individuals with knowledge or expertise, whether by experience or training, in the fields of commercial development, entertainment, sports, agriculture, the arts, or other areas consistent with the purposes of this chapter, and shall include all of the following:

(1) Five members appointed by the Governor.

(2) Two members appointed by the President pro Tempore of the Senate.

(3) Two members appointed by the Speaker of the Assembly.

(c) The term of a board member shall be four years.

1 (d) Any vacancy in the membership of the board shall not
2 affect the powers of the board and shall be filled in the same
3 manner as the original appointment.

4 (e) The chair of the board shall be elected by a majority of the
5 members of the board at the first official meeting of the board.

6 6404. (a) Five members of the board shall constitute a
7 quorum to conduct business, but the board may establish a lesser
8 quorum for conducting hearings. The board may establish by
9 majority vote any other rules for the conduct of the board's
10 business, if the rules are not inconsistent with this chapter or
11 other provisions of law.

12 (b) The board may hold hearings, sit and act at designated
13 times and places, administer oaths, take testimony, and receive
14 evidence as the board considers advisable to carry out its duties.

15 (c) Witnesses requested to appear before the board may be
16 paid the same fees as are paid to witnesses pursuant to the Code
17 of Civil Procedure. The per diem and mileage allowances for
18 witnesses shall be paid from funds appropriated to the board.

19 (d) The board may secure directly from any state or local
20 agency information the board considers necessary to carry out its
21 duties. Upon the request of the board, the head of a department or
22 agency shall furnish information to the board.

23 6405. (a) (1) Except as provided in subdivision (b),
24 members of the board shall be compensated at a rate equal to the
25 daily equivalent of the per diem and mileage rate for state
26 executive officers when engaged in the performance of their
27 official duties.

28 (2) Members of the board shall be allowed travel expenses,
29 including per diem in lieu of subsistence, at rates authorized for
30 employees of state agencies while away from their homes or
31 regular places of business in the performance of service for the
32 board.

33 (b) All members of the board who serve as officers or
34 employees of the state or a local government; shall serve without
35 compensation in addition to that received for those services.

36 37 Article 3. Powers and Duties 38

39 6406. The authority may exercise all rights and powers,
40 expressed or implied, necessary to carry out the purposes and

1 intent of this chapter and may do all of the following in that
2 regard:

3 (a) Sue and be sued in its own name.

4 (b) (1) Acquire, construct, manage, maintain, or operate any
5 facility or improvement described in subdivision (c) of Section
6 6401.

7 (2) The authority may exercise the power of eminent domain
8 to acquire property for the purposes of constructing or improving
9 a facility under this chapter.

10 (3) Except as provided in this chapter, a facility or
11 improvement constructed pursuant to this chapter shall be subject
12 to laws applicable to state-owned facilities.

13 (c) Hold, manage, occupy, dispose of, convey, encumber, and
14 create leasehold interests in property for the benefit of the
15 authority.

16 (d) Contract with agents and employ employees, define their
17 qualifications and duties, and provide compensation for the
18 performance of their duties.

19 (e) Employ counsel.

20 (f) Establish and enforce rules and regulations for the
21 administration of the authority and its property.

22 (g) Enter into joint exercise of powers agreements pursuant to
23 Chapter 5 (commencing with Section 6500) of Division 7 of Title
24 1.

25 (h) Contract with any other public agency for any services
26 necessary to carry out the purposes of this chapter.

27 (i) (1) Notwithstanding any other provision of state law or
28 local ordinance, sell directly or through an agent or agents, upon
29 terms to be fixed by the authority, premium seat licenses, facility
30 naming rights, or sponsorship rights to raise funds for facility
31 construction, in addition to funds raised pursuant to Article 4
32 (commencing with Section 6410).

33 (2) Upon completion of a facility, the authority may continue
34 to sell premium seat licenses, facility naming rights, or
35 sponsorship rights.

36 (j) Impose a facilities fee on tickets sold at a facility financed
37 by the authority, which shall be applied to the indebtedness
38 associated with the facility, and the administrative costs of the
39 authority.

(k) Incur debts, liabilities, or obligations ~~that, which~~ shall not be considered the debts, liabilities, or obligations of the state.

6407. (a) Subject to subdivision (b), the authority shall operate, maintain, and preserve a facility financed pursuant to this chapter in good repair and working order, and shall operate the facility in an efficient and economical manner.

(b) (1) Notwithstanding subdivision (a), the authority may lease or rent concessions, lease or rent the facility, or otherwise provide for the operation of the facility.

(2) In addition to any agreement described in paragraph (1), the authority may enter into an agreement with another state agency pursuant to Section 11256 or a public agency as defined in Section 22009.01 for the purpose of operating a facility for the general recreational purposes of a city or county.

6408. Excess revenues received pursuant to this chapter shall not be available for any other state expense, but shall be retained by the authority for its administrative expenses.

~~6409. (a) Notwithstanding Sections 21080 and 21081 of the Public Resources Code, the board of directors of the authority may, by resolution, determine at a noticed public hearing that the adoption of a plan for the construction of a facility or facilities pursuant to this chapter is not subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), if the proposed facility or facilities are to be built on the property of an existing public facility or as a replacement of, or improvement to, an existing facility. Any other proposal for the construction of a proposed facility under this chapter, which may have a significant effect on the environment, shall be subject to the California Environmental Quality Act. The environmental document for such a proposal shall include an analysis and mitigation of potential cumulative impacts that otherwise will not be known until an environmental impact report for the proposal is certified.~~

~~(b) (1) The notice of the public hearing required pursuant to subdivision (a) shall include the date, time, and place of the hearing, a brief description of the proposal and its location, the date when notice will be provided pursuant to Section 21092 of the Public Resources Code, and the address where copies of the notice of exemption are available for review.~~

1 ~~(2) The notice shall be given to all organizations that, and~~
2 ~~individuals who, have previously requested notice pursuant to the~~
3 ~~California Environmental Quality Act, and shall be given by~~
4 ~~publication, no fewer times than is required pursuant to Section~~
5 ~~6061, by the public agency in a newspaper of general circulation~~
6 ~~in the area affected by the proposed construction project.~~

7 ~~(d) If the board determines, pursuant to subdivision (a), that~~
8 ~~the adoption of a plan to construct a facility or facilities is not~~
9 ~~subject to the California Environmental Quality Act, the~~
10 ~~authority shall prepare and certify an environmental impact~~
11 ~~report for the plan within 18 months after the effective date of the~~
12 ~~resolution adopting the plan. An environmental impact report~~
13 ~~prepared and certified for a specific plan or other comprehensive~~
14 ~~land use plan for the project area shall satisfy the requirement of~~
15 ~~this subdivision.~~

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17 Article 4. Issuance of Bonds and Indebtedness
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19 6410. In addition to other powers, the authority may issue
20 revenue bonds pursuant to this chapter to pay the cost and
21 expenses of acquiring or constructing a facility or of projects or
22 programs associated with the facility.

23 6411. (a) An indenture providing the terms and conditions
24 for the issuance of the revenue bonds and the covenants relating
25 to the bonds shall be approved by resolution adopted by a
26 majority of the board. The indenture shall describe or state the
27 revenues and funds from which the bonds shall be payable. The
28 funds or revenues shall include the revenues derived from the
29 operation of the facility for which the bond proceeds are used or
30 expended and any other revenues derived from the facility.

31 (b) The principal and interest of the revenue bonds shall be
32 payable as follows:

33 (1) First, out of the revenue derived from the operation of the
34 facility for which the bond proceeds were or are to be used or
35 expended or any other revenues derived from the facility,
36 including facilities fees imposed pursuant to subdivision (j) of
37 Section 6406.

38 (2) (A) Second, from other revenues, including existing funds,
39 of the authority that are described or stated as security for the
40 bonds in the indenture in accordance with this section.

(B) Notwithstanding subparagraph (A), no revenue derived from any other facility owned by the authority shall be applied to payment of principal or interest, or any related cost, of the bonds, nor stated as security for the bonds.

6412. The indenture authorizing the issuance of the revenue bonds shall provide the denomination or denominations of the bonds, the medium of payment of principal and interest, the place of payment of the bonds and interest, which may be in or outside the state, the form of the bonds, including recitals of regularity of the proceedings for the issuance of the bonds, and of interest coupons pertaining to the bonds, the form, denominations and conditions of any temporary bonds or interim certificates, and the manual and facsimile signatures to be attached to the bonds or certificates, one signature upon which shall be manual, and the manual or facsimile signature to be affixed to the interest coupons.

6413. The indenture may provide the terms and conditions under which the revenue bonds may be paid, redeemed before maturity, including the premiums, if any, to be payable upon bonds redeemed prior to maturity, exchanged, registered, transferred, and negotiated. No bond shall be redeemable prior to maturity unless a statement substantially to that effect is contained in the bond.

6414. The indenture may also provide for all of the following:

(a) Issuance of a duplicate in the manner and upon the terms and conditions the authority determines, in the event any bond, temporary bond, coupon or interim certificate of any issue is lost, destroyed, or mutilated.

(b) A covenant or provision against entering into any agreement that impairs the operation of the facility or any part of it necessary to secure adequate revenues to pay the principal and interest of the bonds or that otherwise would impair the rights of the bondholders with respect to the revenues or the operation of the facility.

(c) Events of default and the terms upon which the bonds may be declared due before maturity and the terms upon which that declaration and its consequences may be waived.

(d) The rights, liabilities, powers, and duties arising upon the authority's breach of any covenants, conditions, or obligations of the indenture.

1 (e) A fiscal agent and the deposit of funds with that agent.

2 6415. The indenture authorizing the issuance of the revenue
3 bonds and all resolutions or orders in the proceeding for the
4 issuance of the bonds shall constitute a contract with the holders
5 of the bonds. That contract may be enforced by any holder by
6 mandamus, injunction, or any applicable legal action, suit,
7 proceeding, or other remedy.

8 6416. In the indenture authorizing the issuance of the revenue
9 bonds, the authority may also fix additional terms and conditions
10 and may in any article, section, or clause make any provision or
11 covenant it deems necessary or desirable to facilitate the issuance
12 and sale of the bonds or for the protection or security of the
13 holders of the bonds, including, but not limited to, provision for
14 any or all of the matters stated in this article.

15 6417. (a) The revenue bonds shall be issued and sold as the
16 authority may determine and for not less than par and accrued
17 interest to date of delivery, except that, in the case of bonds for a
18 facility, the bonds may be sold at less than par if the authority
19 determines that the sale will result in more favorable terms for
20 the bonds.

21 (b) The proceeds from the sale, except premium and accrued
22 interest, that shall be paid into the bond service or other fund
23 designated or established for the payment of the principal and
24 interest of the bonds, shall be paid into the construction fund or
25 other fund designated by the indenture authorizing the issuance
26 of the bonds and shall be applied exclusively to the objects and
27 purposes set forth in the indenture, including all incidental or
28 related expenses and the payment of interest on the bonds during
29 the period of study and construction of the facility and for a
30 period not to exceed 12 months after completion of the
31 construction.

32 6418. The authority may incur other forms of indebtedness,
33 including, but not limited to, notes, warrants, equity interests, and
34 leasehold interests pursuant to this chapter, subject to
35 authorization by a resolution adopted by a majority of the board
36 at a regularly scheduled meeting. This indebtedness may be
37 secured by a pledge, with the power of sale, of all or any part of
38 bonds authorized under this section or issued under this chapter.

39 6419. All bonds and the interest and income from the bonds
40 are exempt from all taxation in this state.

1 6420. (a) The authority may provide for the issuance, sale, or
2 exchange of refunding bonds for the purpose of redeeming or
3 retiring any revenue bonds issued by the authority and any other
4 indebtedness incurred by the authority. All provisions of this
5 chapter applicable to the issuance of revenue bonds are
6 applicable to the funding or refunding bonds and to the issuance,
7 sale, or exchange.

8 (b) Funding or refunding bonds may be issued in a principal
9 amount sufficient to provide funds for the payment of all of the
10 following:

11 (1) All bonds to be funded or refunded by the funding or
12 refunding bonds.

13 (2) All expenses incident to the calling, retiring, or paying of
14 the outstanding bonds and the issuance of the funding or
15 refunding bonds, including the costs of issuing the refunding
16 bonds.

17 (3) Interest upon the funding or refunding bonds from the date
18 of sale to the date of payment of the bonds to be funded or
19 refunded out of the proceeds of the sale or the date upon which
20 the bonds to be funded or refunded will be paid pursuant to the
21 call or agreement with the holders of the bonds.

22 (4) Any premium necessary in the calling or retiring of the
23 outstanding bonds and the interest accruing on them to the date
24 of the call or retirement.

25 6421. Any bonds issued under this chapter shall be payable
26 within not more than 40 years from the date of issue.

27 6422. Neither the revenue bonds issued under this chapter,
28 the contracts or obligations entered into to carry out the purposes
29 for which bonds are issued, payable in whole or in part from the
30 proceeds of the bonds, nor any other form of indebtedness
31 incurred by the authority, shall constitute a debt, liability, or
32 obligation of the state. Any bond or other evidence of
33 indebtedness issued pursuant to this chapter shall state this
34 provision on its face.

35 Article 5. Construction of Chapter

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38 6423. This chapter shall be liberally construed to effectuate
39 its purposes.

1 6424. If any provision of this chapter or the application of
2 any provision of this chapter in any circumstance to any person,
3 city, county, or district, the state, or any agency or subdivision of
4 the state, is held invalid, that invalidity shall not affect other
5 provisions or applications of this chapter that may be given effect
6 without the invalid provision or application of the invalid
7 provision, and to this end the provisions of this chapter are
8 severable.

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